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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,475	06/19/2006	Simon Garry Moore	JAMES114.001APC	8398
20995 7590 04/10/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER GARCIA, ERNESTO				
ART UNIT 3679		PAPER NUMBER		
NOTIFICATION DATE 04/10/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/562,475

Applicant(s)

MOORE, SIMON GARRY

Examiner

ERNESTO GARCIA

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Restriction and Election of Species

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-18, drawn to a securing apparatus.

Group II, claims 19-22, drawn to a releasing tool.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The lack of unity of invention is evident "*a priori*," that is, before considering the claims in relation to any prior art. The independent claims to the securing apparatus and the releasing tool lack unity *a priori* as there is no subject matter common to the independent claims. The releasing tool mentioned in claim 1 is not claimed but inferentially recites the tool. With respect to claims 17 and 18, the tool appears to be claimed; however, there's no subject matter common between the tools in claims 19-22 and that recited in the apparatus. Further, assuming *arguendo*, that the tool is common, any flat screw driver, used as prior art, reads on the tools and therefore there's no unity of invention since the tool is known. This approach provides for lack of unity based on "*a posteriori*," that is, after taking the prior art into consideration since there is no subject matter common to all claims.

Further, this application contains claims directed to more than one species of the generic invention of the securing apparatus and the releasing tool. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species of the securing apparatus are as follows:

- | | | | |
|-----------------|-------------------|-----------------|---------------|
| la. Figures 1-2 | lb. Figure 3 | lc. Figure 4 | ld. Figure 5 |
| le. Figure 6 | lf. Figure 7 | lg. Figures 8-9 | lh. Figure 10 |
| li. Figure 11 | lj. Figures 12-13 | lk. Figure 14 | ll. Figure 15 |

The species of the releasing tool are as follows:

- | | | |
|---------------|----------------|----------------|
| lla. Figure 5 | llb. Figure 10 | llc. Figure 15 |
|---------------|----------------|----------------|

If applicant elects either the securing apparatus or the releasing tool, applicant is required, in reply to this action, to elect a single species of the apparatus (if the apparatus was elected) or the releasing tool (if the releasing tool was elected) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 2 and 6 corresponds to species lb.

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Claims 3-5, 15, and 16 corresponds to species 1a.
Claim 7 corresponds to species 1d.
Claim 8 corresponds to species 1j and 1k.
Claim 11 corresponds to species 1g.
Claim 12 does not correspond to any of the species.
Claims 13 and 14 correspond to species 1i.
Claim 15 corresponds to species 1a, 1b, and 1c.
Claim 16 corresponds to species 1a, 1b, 1c, and 1h.

Note that no claims correspond to species 1e, 1f, and 1l; however, these species are covered by the generic claims.

The following claim(s) are generic: claims 9, 10, 17, and 18.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

an assessment of the prior art with respect to the independent claims provides no unity of invention since the "special technical features", i.e., "a deformable body", and "an aperture within the body" common in each of the independent claims is known from patents WO91/02172 and EP-654316. Applicant should note that the lack of unity is based on a posteriori and the special technical features, common to all species, do not define a contribution over the prior.

A telephone call was made to Andrew H. Simpson on April 2, 2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

April 8, 2008

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679